IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. PHIEU VAN NGUYEN and VA THI NGUYEN, Defendants.	No. CR 07-4068-MWB **PRELIMINARY AND FINAL INSTRUCTIONS TO THE JURY**

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PRELIMINARY INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, I am giving you these Preliminary Jury Instructions to help you better understand the trial and your role in it. Consider these instructions, together with all written and oral instructions given to you during or at the end of the trial, and apply them as a whole to the facts of the case. In considering these instructions, the order in which they are given is not important.

As I explained during jury selection, in an Indictment, defendant Phieu Van Nguyen is charged with a "CCE offense" and eight "money-laundering offenses," and defendant Va Thi Nguyen is charged with a "marijuana conspiracy" offense. As I also explained during jury selection, an Indictment is simply an accusation. It is not evidence of anything. The defendants have each pled not guilty to the crime or crimes charged against them, and each defendant is presumed to be innocent of any charged offense unless and until the prosecution proves his or her guilt on that offense beyond a reasonable doubt.

Your duty is to decide from the evidence whether each defendant is not guilty or guilty of each charge against him or her. You will find the facts from the evidence. You are the sole judges of the facts, but you must follow the law as stated in these instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, based solely on the evidence, your common sense, and the law in these instructions. Do not take anything that I may have done during jury selection or that I may say or do during the trial as indicating what I think of the

evidence or what I think your verdict should be. Similarly, do not conclude from any ruling or other comment that I have made or may make that I have any opinions on how you should decide the case.

Please remember that only defendants Phieu Van Nguyen and Va Thi Nguyen, not anyone else, are on trial here. Also, remember that these defendants are on trial *only* for the offense or offenses charged against them in the Indictment, not for anything else.

Each defendant is entitled to be considered separately and to have each charge against him or her considered separately based solely on the evidence that applies to that defendant and that charge. *Therefore, you must give separate consideration to each charge against each defendant and return a separate, unanimous verdict on each charge against each defendant*.

PRELIMINARY INSTRUCTION NO. 2 - PRELIMINARY MATTERS

Before I turn to specific instructions on the offenses charged in this case, I must explain some preliminary matters.

"Elements"

Each offense charged in this case consists of "elements," which the prosecution must prove beyond a reasonable doubt against the defendant charged with that offense in order to convict that defendant of that offense. I will summarize in the following instructions the elements of each offense with which the defendants are charged.

Timing

The Indictment alleges that the offenses were committed "between about" one date "through" another date or "on or about" a specific date. The prosecution does not have to prove with certainty the exact date of an offense charged. It is sufficient if the prosecution's evidence establishes that an offense occurred within a reasonable time of the time period alleged for that offense in the Indictment.

Controlled substances

In these instructions, when I refer to a "controlled substance," I mean any drug or narcotic that is regulated by federal law. The drug-trafficking offenses charged in this case allegedly involved one such "controlled substance," marijuana. "Marijuana" includes "marijuana plants," whether growing or not, all parts of the plants, seeds, and any material extracted from the marijuana plants. A "marijuana

plant" is a seedling, cutting, stem, or full plant that has developed root hairs, regardless of weight.

"Intent" and "Knowledge"

The elements of the charged offenses may require proof of what a defendant "intended" or "knew." Where what a defendant "intended" or "knew" is an element of an offense, that defendant's "intent" or "knowledge" must be proved beyond a reasonable doubt. "Intent" and "knowledge" are mental states. It is seldom, if ever, possible to determine directly the operations of the human mind. Nevertheless, "intent" and "knowledge" may be proved like anything else, from reasonable inferences and deductions drawn from the facts proved by the evidence.

An act was done "knowingly" if the defendant in question was aware of the act and did not act through ignorance, mistake, or accident. The prosecution is not required to prove that a defendant knew that his or her acts or omissions were unlawful. An act was done "intentionally" if the defendant in question did the act voluntarily, without coercion, and not because of ignorance, mistake, accident, or inadvertence.

"Possession," "Distribution," "Delivery," and "Manufacture"

The drug-trafficking offenses charged in this case allegedly involved "possession," "distribution," "delivery," or "manufacture" of marijuana or a conspiracy to do those things. Distribution," in turn, involves "delivery" or transfer of "possession." The following definitions of "possession," "distribution," "delivery," and "manufacture" apply in these instructions:

The law recognizes several kinds of "***possession***." A person was in "actual possession" of an item if the person knowingly had direct physical control over that item at a given time. A person was in "constructive possession" of an item, even if the person did not have direct physical control over that item, if the person knew of the presence of the item and had control over the place where the item was located or had control or ownership of the item itself. Thus, mere presence of a person where an item is found or mere proximity of a person to the item is insufficient to establish a person's "possession" of that item. The person must know of the presence of the item at the same time that he or she has control over the item or the place where it was found. "Constructive possession" can be established by a showing that the item was seized at the person's residence or from the person's vehicle, if the person knew of the presence of the item at the residence or in the vehicle. On the other hand, a person's mere presence as a passenger in a vehicle from which the police recovered the item does not establish that person's constructive possession of the item. If one person alone had actual or constructive possession of an item, possession was "sole." If two or more persons shared actual or constructive possession of an item, possession was "joint."

The term "***distribute***" means to deliver an item, such as marijuana, to the actual or constructive possession of another person. The term "***deliver***" means the actual, constructive, or attempted transfer of an item, such as marijuana, to the actual or constructive possession of another person. It is not necessary that money or anything of value changed hands for you to find that there was a "distribution" of marijuana, "possession with intent to distribute" marijuana, or a "conspiracy to

distribute marijuana." The law prohibits "conspiring" to distribute marijuana, "distribution" of marijuana, and "possession with intent to distribute" marijuana. The prosecution does not have to prove that there was or was intended to be a "sale" of marijuana to prove the offenses charged in this case.

Finally, "***manufacturing marijuana***" means the production, preparation, propagation, or processing of marijuana.

* * *

I will now give you more specific Preliminary Jury Instructions about the offenses charged in the Indictment. However, please remember that these Preliminary Jury Instructions on the charged offenses provide only a preliminary outline of the requirements for proof of these offenses. At the end of the trial, I will give you further written Final Jury Instructions on these matters. Because the Final Jury Instructions are more detailed, you should rely on those Final Jury Instructions, rather than these Preliminary Jury Instructions, where there is a difference.

PRELIMINARY INSTRUCTION NO. 3 - COUNT 1: THE CCE OFFENSE

Count 1 of the Indictment charges that, from a date unknown, but prior to November 2003, and continuing through about September 2007, defendant Phieu Van Nguyen unlawfully, knowingly, and intentionally engaged in a "continuing criminal enterprise" or "CCE." Phieu Van Nguyen denies that he committed this "CCE offense."

For you to find defendant Phieu Van Nguyen guilty of this "CCE offense," the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

***One*, defendant Phieu Van Nguyen committed a felony violation of federal controlled substances laws, that is, one of the following offenses: (a) manufacturing marijuana; (b) distributing marijuana; (c) possessing with intent to distribute marijuana; (d) using a communications facility to facilitate the commission of felony drug-trafficking offenses; (e) using a structure for the purpose of manufacturing controlled substances; and (f) conspiring to manufacture, distribute, and possess with intent to distribute marijuana.**

***Two*, that offense was part of a continuing series of three or more related felony violations of the federal controlled substances laws.**

***Three*, Phieu Van Nguyen undertook the series of related violations in concert with five or more other persons.**

***Four*, Phieu Van Nguyen acted as organizer, supervisor, or manager of those five or more other persons.**

***Five*, Phieu Van Nguyen obtained substantial income, money, or other property from the series of violations.**

For you to find defendant Phieu Van Nguyen guilty of the "CCE offense" charged in **Count 1** of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements. Otherwise, you must find him not guilty of the "CCE offense" charged in **Count 1**.

PRELIMINARY INSTRUCTION NO. 4 - COUNT 1:
THE CCE OFFENSE: RELATED FELONY VIOLATIONS

To prove that a CCE existed, the prosecution must prove, among other things identified in Preliminary Jury Instruction No. 3, that defendant Phieu committed a felony violation of the federal controlled substances laws and that such violation was one of a series of three or more related felony violations of the federal controlled substances laws that were actually committed. To help you determine whether any such violation was actually committed, you must consider the elements of that violation. I will explain briefly in this instruction the elements of each felony offense alleged to be part of the series of related felony violations.

Manufacturing marijuana

To prove that a person manufactured marijuana, the prosecution would have to prove beyond a reasonable doubt the following elements:

One, on or about the date alleged, the person manufactured marijuana.

Two, the person knew that he or she was, or intended to be, manufacturing a controlled substance.

Distributing marijuana

To prove that a person distributed marijuana, the prosecution would have to prove beyond a reasonable doubt the following elements:

One, on or about the date alleged, the person intentionally distributed marijuana to another; and

Two, at the time of the distribution, the person knew that what he was distributing was a controlled substance.

Possessing with intent to distribute marijuana

To prove that a person possessed with intent to distribute marijuana, the prosecution would have to prove beyond a reasonable doubt the following elements:

One, on or about the date alleged, the person was in possession of marijuana;

Two, the person knew that he was, or intended to be, in possession of a controlled substance; and

Three, the person intended to distribute some or all of the controlled substance to another person.

Using a communications facility to facilitate drug-trafficking offenses

To prove that a person used a communications facility to facilitate the commission of a drug-trafficking offense, the prosecution would have to prove beyond a reasonable doubt the following elements:

One, the person knowingly used a "communications facility," such as the mail, telephone, wire, radio, or other means of communication; and

Two, the person did so with the intent to commit or to facilitate, assist, aid, or to make easier or less difficult the commission of a drug-trafficking offense.

Using a structure for the purpose of distributing controlled substances

To prove that a person used a structure for the purpose of distributing controlled substances, the prosecution would have to prove beyond a reasonable doubt the following elements:

One, the person knowingly used any place or structure, whether permanently or temporarily; and

Two, the person did so for the purpose of distributing any controlled substance.

Conspiring to manufacture, distribute, and possess with intent to distribute marijuana

To prove that a person conspired to manufacture, distribute, or possess with intent to distribute marijuana, the prosecution would have to prove beyond a reasonable doubt the elements set out in Preliminary Jury Instruction No. 5, beginning on page 13. Defendant Phieu Van Nguyen has admitted that he conspired to manufacture, distribute, and possess with intent to distribute marijuana. Therefore, defendant Phieu's commission of this offense is established as a matter of law. You must still determine, however, whether or not defendant Phieu Van Nguyen committed any of the other offenses alleged, and whether this conspiracy offense was part of a continuing series of related felony drug-trafficking offenses.

Money-laundering offenses not relevant to the CCE offense

You may also hear evidence that defendant Phieu Van Nguyen committed money-laundering offenses. However, you may *not* consider the money-laundering offenses as part of the series of violations required to prove a CCE. Furthermore, you may *not* consider any evidence that you may hear that Phieu Van Nguyen acted in concert with other persons or acted as organizer, supervisor, or manager of other persons to commit money-laundering offenses to determine whether Phieu Van Nguyen acted in concert with other persons or acted as organizer, supervisor, or manager of other persons for purposes of determining whether or not the CCE offense has been proved. Only the controlled substances offenses identified above are relevant to proof of the existence of a CCE, as required by elements *one*, *two*, *three*, and *four* of the CCE offense. On the other hand, if you find that the money-laundering offenses involved income, money, or other property from the CCE, then you may consider evidence of the money-laundering offenses in your determination of whether or not Phieu Van Nguyen obtained substantial income, money, or other property from the series of controlled substances violations, as required by element *five* of the CCE offense.

PRELIMINARY INSTRUCTION NO. 5 - COUNT 2: THE MARIJUANA CONSPIRACY

Count 2 charges that, from a date unknown, but prior to November 2003, and continuing through September 2007, defendant Va Thi Nguyen knowingly and unlawfully conspired with others whose identities are both known and unknown to the Grand Jury to commit the following offenses:

(a) manufacturing 1,000 or more marijuana plants;

(b) possessing with intent to distribute 1,000 kilograms or more of marijuana; and

(c) distributing 1,000 kilograms or more of marijuana.

This Count charges, further, that the conspirators conspired to commit these offenses within 1,000 feet of a playground or school, that is, Dale Street Park, Irving Elementary, Kiddie Park, Roosevelt Elementary, and Cook Park Center, all located in Sioux City, Woodbury County, Iowa. Defendant Va Thi Nguyen denies that she committed this offense.

For you to find defendant Va Thi Nguyen guilty of this "marijuana conspiracy" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements as to her:

***One*, between a date unknown, but prior to November 2003, and September 2007, two or more persons reached an agreement or came to an**

understanding to commit one or more of the offenses identified as objectives of the conspiracy.

***Two*, Va Thi Nguyen voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect.**

***Three*, at the time that Va Thi Nguyen joined in the agreement or understanding, she knew the purpose of the agreement or understanding.**

For you to find defendant Va Thi Nguyen guilty of the "marijuana conspiracy" offense charged in **Count 2** of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements. Otherwise, you must find her not guilty of the "marijuana conspiracy" offense charged in **Count 2**.

In addition, if you find defendant Va Thi Nguyen guilty of this "marijuana conspiracy" offense, then you must also determine beyond a reasonable doubt the quantity of any marijuana actually involved in the conspiracy for which she can be held responsible, as determination of drug quantity is explained in Preliminary Instruction No. 7.

PRELIMINARY INSTRUCTION NO. 6 - COUNT 2: "OBJECTIVES" OF THE MARIJUANA CONSPIRACY

The "marijuana conspiracy" charge alleges that the conspirators agreed to commit one or more of the following offenses, or "objectives": (1) manufacturing 1,000 or more marijuana plants; (2) possessing with intent to distribute 1,000 kilograms or more of marijuana; and (3) distributing 1,000 kilograms or more of marijuana.

Objectives

To assist you in determining whether there was an agreement to commit one or more of these objectives, you should consider the elements of these offenses. The elements of ***manufacturing marijuana*** and ***distributing marijuana*** were explained in Preliminary Jury Instruction No. 4, beginning on page 9. The elements of ***possessing with intent to distribute marijuana*** were explained in Preliminary Jury Instruction No. 4, beginning on page 10.

Keep in mind that the prosecution must prove that there was an *agreement* to commit one or more of the offenses alleged as "objectives" to establish the guilt of the defendant on the "marijuana conspiracy" charge. The prosecution is *not* required to prove that there was an agreement to commit *all* of the offenses identified as objectives. Also, the prosecution is *not* required to prove that any offense charged as an "objective" of the "marijuana conspiracy" *was actually committed*. In other words, the question is whether the defendant in question *agreed*

to commit one or more of the offenses charged as "objectives" of the "marijuana conspiracy," not whether that defendant or someone else *actually* committed any such offenses. You must unanimously agree upon *which* offense or offenses were objectives of the conspiracy, however.

Definitions of "school" and "playground"

This Count alleges that the defendants conspired to commit these offenses within 1,000 feet of one or more "schools" or "playgrounds." This Count identifies the "playgrounds" or "schools" in question as Dale Street Park, Irving Elementary, Kiddie Park, Roosevelt Elementary, and Cook Park Center, all located in Sioux City, Woodbury County, Iowa. You must determine whether each such place is a "school" or "playground." A "school" is defined for purposes of this offense as the real property comprising a public or private elementary school. School does not have to be in session nor do children need to be near or around the school at the time of the offense for the property to be a "school." A "public playground" is defined as any outdoor facility, including any adjacent parking lot, intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards. Children do not need to be near or around the playground at the time of the offense for the property to be a "playground."

Proximity to a school or playground

You must also decide whether the location at which the conspirators agreed that the manufacture of marijuana, the distribution of marijuana, or the possession of marijuana with intent to distribute would take place was within 1,000 feet of one or more of the "schools" or "playgrounds." The 1,000 foot zone can be measured in a straight line from the "school" or "playground," without regard to actual pedestrian travel routes. The prosecution does not have to prove that the defendant knew or intended that the manufacture, distribution, or possession with intent to distribute would take place within 1,000 feet of a "school" or "playground." Rather, the prosecution must prove that the co-conspirators agreed that the manufacture, distribution, or possession with intent to distribute of the marijuana would take place at a location that is within 1,000 feet of a "school" or "playground."

PRELIMINARY INSTRUCTION NO. 7 - QUANTITY OF MARIJUANA

If you find defendant Va Thi Nguyen guilty of the "marijuana conspiracy" offense charged in **Count 2** of the Indictment, then you must also determine beyond a reasonable doubt the quantity of any marijuana actually involved in that offense for which she can be held responsible.

Even though the Indictment charges that the "marijuana conspiracy" offense involved specific quantities of marijuana, the prosecution does not have to prove that the offense involved the amount or quantity of marijuana alleged in the Indictment. However, *if* you find defendant Va Thi Nguyen guilty of the "marijuana conspiracy" offense charged in **Count 2** of the Indictment, *then* you must determine the following matters *beyond a reasonable doubt*: (1) whether that offense actually involved marijuana, as charged in that offense; and (2) the *total quantity range*, in either "plants" or "kilograms," of the marijuana involved in that offense for which defendant Va Thi Nguyen can be held responsible. You may find more or less than the charged quantity of marijuana for that offense, but you must find that the quantity range you indicate in the Verdict Form for the marijuana involved in that offense has been proved beyond a reasonable doubt as the quantity range for which defendant Va Thi Nguyen can be held responsible.

Responsibility

A defendant guilty of the ***"marijuana conspiracy" offense*** charged in **Count 2** of the Indictment is responsible for the quantities of any marijuana that the

defendant personally manufactured, distributed, or possessed with intent to distribute, or that the defendant agreed to manufacture, distribute, or possess with intent to distribute. Such a defendant is also responsible for any quantities of marijuana that fellow conspirators manufactured, distributed, or possessed with intent to distribute, or agreed to manufacture, distribute, or possess with intent to distribute, if you find that the defendant could have reasonably foreseen, at the time that the defendant joined the conspiracy or while the conspiracy lasted, that those prohibited acts were a necessary or natural consequence of the conspiracy. Marijuana acquired for personal use should be included when determining the drug quantity for the "marijuana conspiracy" offense.

Determination of quantity and verdict

If you find defendant Va Thi Nguyen guilty of the "marijuana conspiracy" offense charged in **Count 2**, then you must determine beyond a reasonable doubt the *total quantity range*, in *plants* or *kilograms*, of the marijuana involved in that offense for which you find that she can be held responsible. You must then indicate that *total quantity range* in the Verdict Form.

Thus, if you find defendant Va Thi Nguyen guilty of one of the "marijuana conspiracy" offense, and that the offense involved manufacturing marijuana, you must determine beyond a reasonable doubt whether she can be held responsible for a conspiracy involving the manufacture of 1,000 or more plants, 100 or more plants but less than 1,000 plants, or less than 100 plants. Again, a "marijuana plant" is a seedling, cutting, stem, or full plant that has developed root hairs, regardless of weight. If you find defendant Va Thi Nguyen guilty of the "marijuana conspiracy"

offense, and that the offense involved distributing or possessing with intent to distribute marijuana, then you must determine beyond a reasonable doubt whether she can be held responsible for a conspiracy involving the distribution or possession with intent to distribute of 1,000 kilograms or more, 100 or more kilograms but less than 1,000 kilograms, or less than 100 kilograms of marijuana.

In making your determination of quantity as required, it may be helpful to remember that one pound is approximately equal to 453.6 grams and that one ounce is approximately equal to 28.34 grams.

PRELIMINARY INSTRUCTION NO. 8 - COUNTS 3 THROUGH 8: MONEY LAUNDERING WITH PROCEEDS OF ILLEGAL DRUG TRAFFICKING

Counts 3 through **8** of the Indictment charge that, on or about certain specified dates, defendant Phieu Van Nguyen knowingly and willfully conducted, attempted to conduct, and aided and abetted in the conduct of financial transactions affecting interstate and foreign commerce that involved the proceeds of illegal drug trafficking, including but not limited to the conduct charged in **Count 1**. More specifically,

Count 3 charges that, on or about February 20, 2006, the defendant drew check 1376 on the Nguyen Liquors account in the amount of $6,422;

Count 4 charges that, on or about May 1, 2006, the defendant made three cash deposits totaling more than $16,000;

Count 5 charges that, on or about August 16, 2006, the defendant made a cash payment of approximately $30,000 for growing equipment that had been delivered from outside the state of Iowa;

Count 6 charges that, on or about January 2 and 3, 2007, the defendant made three cash deposits totaling $19,000;

Count 7 charges that, on or about March 30, 2007, the defendant made two cash deposits totaling $10,000; and

Count 8 charges that, on or about April 17, 2007, the defendant made four cash deposits totaling more than $20,000.

Defendant Phieu Van Nguyen denies that he committed these "money laundering" offenses.

For you to find the defendant guilty of one of these offenses, the prosecution must prove *all* of the following essential elements beyond a reasonable doubt as to that offense:

***One*, on or about the date alleged in the Count in question, Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct a financial transaction that in any way or degree affected interstate or foreign commerce.**

***Two*, Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct the financial transaction with United States currency that involved the proceeds of the illegal manufacture, distribution, or possession with intent to distribute of marijuana.**

***Three*, at the time Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct the financial transaction, he knew that the United States currency represented the proceeds of some form of unlawful activity.**

***Four*, Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct the financial transaction with one or more of the following objectives:**

(a) with the intent to promote the carrying on of the illegal drug trafficking; or

(b) knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking; or

(c) knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.

For you to find the defendant guilty of a particular money-laundering offense, as charged in **Counts 3** through **8** of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements as to that offense. Otherwise, you must find that defendant not guilty of the money-laundering offense in question.

PRELIMINARY INSTRUCTION NO. 9 - COUNTS 9 AND 10: MONEY LAUNDERING WITH CRIMINALLY DERIVED PROPERTY

Counts 9 and **10** of the Indictment charge that, on or about specified dates, defendant Phieu Van Nguyen knowingly engaged in and attempted to engage in financial transactions through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from illegal drug trafficking, including but not limited to the conduct charged in Count 1. More specifically,

Count 9 charges that, on or about April 16, 2007, the defendant made a transaction in the amount of $22,220; and

Count 10 charges that, on or about May 6, 2007, the defendant made a transaction in the amount of $12,000.

Defendant Phieu Van Nguyen denies that he committed these "money laundering" offenses.

For you to find the defendant guilty of one of these offenses, the prosecution must prove *all* of the following essential elements beyond a reasonable doubt as to that offense:

***One*, on or about the date alleged in the Count in question, Phieu Van Nguyen knowingly withdrew or transferred funds from a bank account.**

***Two*, the transfer or withdrawal was of a value greater than $10,000 derived from the manufacture or distribution of marijuana.**

***Three*, Phieu Van Nguyen knew that the transfer or withdrawal involved proceeds of a criminal offense.**

***Four*, the transfer or withdrawal took place in the Northern District of Iowa.**

***Five*, the transfer or withdrawal in some way or degree affected interstate commerce.**

For you to find the defendant guilty of a particular money-laundering offense, as charged in **Counts 9** or **10** of the Indictment, the prosecution must prove beyond a reasonable doubt *all* of these essential elements as to that offense. Otherwise, you must find the defendant not guilty of the money-laundering offense in question.

PRELIMINARY INSTRUCTION NO. 10 - PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Each defendant is presumed innocent of each of the charges against him or her and, therefore, not guilty of each offense. This presumption of innocence requires you to put aside all suspicion that might arise from the arrest or charge of the defendants or the fact that they are here in court. The presumption of innocence remains with each defendant throughout the trial. That presumption alone is sufficient to find a defendant not guilty. The presumption of innocence may be overcome as to a particular charge against a particular defendant only if the prosecution proves, beyond a reasonable doubt, *all* of the elements of that offense against that defendant.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant to prove his or her innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, if a defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict in this case.

Unless the prosecution proves beyond a reasonable doubt that a particular defendant has committed each and every element of an offense charged against him or her, you must find that defendant not guilty of that offense.

PRELIMINARY INSTRUCTION NO. 11 - REASONABLE DOUBT

I have previously instructed you that the prosecution must prove a charged offense "beyond a reasonable doubt" for you to find a defendant guilty of that charged offense. A reasonable doubt may arise from the evidence produced by either the prosecution or either defendant, keeping in mind that the defendants never have the burden or duty of calling any witnesses or producing any evidence. It may also arise from the prosecution's lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

PRELIMINARY INSTRUCTION NO. 12 - OUTLINE OF TRIAL

The trial will proceed as follows:

After these preliminary instructions, the prosecutor may make an opening statement. Next, the lawyer for each defendant may, but does not have to, make an opening statement. An opening statement is not evidence. It is simply a summary of what the lawyer expects the evidence to be.

The prosecution will then present its evidence and call witnesses, and the lawyer for each defendant may, but has no obligation to, cross-examine. Following the prosecution's case, each defendant may, but does not have to, present evidence and call witnesses. If a defendant calls witnesses, the prosecutor may cross-examine those witnesses.

After the evidence is concluded, I will give you most of the Final Jury Instructions. The lawyers will then make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. I will then give you the remaining Final Jury Instructions on deliberations, and you will retire to deliberate on your verdict.

PRELIMINARY INSTRUCTION NO. 13 - DEFINITION OF EVIDENCE

Your verdict must be based only on the evidence presented in this case and these and any other Instructions that I may give you during the trial. Evidence is:

1. Testimony.

2. Exhibits that I admit into evidence.

3. Stipulations, which are agreements between the parties.

Evidence may be "direct" or "circumstantial." The law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide.

A particular item of evidence is sometimes admitted only for a limited purpose, and not for any other purpose. I will tell you if that happens, and instruct you on the purposes for which the item can and cannot be used.

The fact that an exhibit may be shown to you does not mean that you must rely on it more than you rely on other evidence.

The following are not evidence:

1. Statements, arguments, questions, and comments by the lawyers.

2. Objections and rulings on objections.

3. Testimony I tell you to disregard.

4. Anything you saw or heard about this case outside the courtroom.

The weight of the evidence is not determined merely by the number of witnesses testifying as to the existence or non-existence of any fact. Also, the weight of the evidence is not determined merely by the number or volume of

documents or exhibits. The weight of the evidence depends upon its quality, which means how convincing it is, and not merely upon its quantity. For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict his or her testimony. The quality and weight of the evidence are for you to decide.

PRELIMINARY INSTRUCTION NO. 14 - CREDIBILITY OF WITNESSES

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the witness's drug or alcohol use or addiction, if any, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe. In deciding whether or not to believe a witness, keep in mind that people sometimes see or hear things differently and sometimes forget things. You need to consider, therefore, whether a contradiction results from an innocent misrecollection or sincere lapse of memory, or instead from an intentional falsehood or pretended lapse of memory.

If a defendant testifies, you should judge his or her testimony in the same manner in which you judge the testimony of any other witness.

Ordinarily, witnesses may only testify to factual matters within their personal knowledge. However, you may hear evidence from persons described as experts. Persons may become qualified as experts in some field by knowledge, skill, training, education, or experience. Such experts may state their opinions on matters

in that field and may also state the reasons for their opinions. You should consider expert testimony just like any other testimony. You may believe all of what an expert says, only part of it, or none of it, considering the expert's qualifications, the soundness of the reasons given for the opinion, the acceptability of the methods used, any reason the expert may be biased, and all of the other evidence in the case.

Just because a witness works in law enforcement or is employed by the government does not mean you should give more weight or credence to such a witness's testimony than you give to any other witness's testimony.

PRELIMINARY INSTRUCTION NO. 15 - USE OF INTERPRETERS

I have determined that the defendants should be allowed to use interpreters at trial and, if they testify, to testify through interpreters. You must not consider a defendant's use of an interpreter or inability to speak fluent English in any way, or even discuss it, in arriving at your verdict in this case.

PRELIMINARY INSTRUCTION NO. 16 - BENCH CONFERENCES AND RECESSES

During the trial it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling a recess. Please be patient, because while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

PRELIMINARY INSTRUCTION NO. 17 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. Also, the lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made objections.

PRELIMINARY INSTRUCTION NO. 18 - NOTE-TAKING

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

You will notice that we have an official court reporter making a record of the trial. However, we will not have typewritten transcripts of this record available for your use in reaching your verdict.

PRELIMINARY INSTRUCTION NO. 19 - CONDUCT OF THE JURY DURING TRIAL

You must decide this case based ***solely*** on the evidence presented in court, in light of your own observations, experiences, reason, and common sense. Therefore, to insure fairness, you, as jurors, must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case or about anyone involved with it until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom do not let anyone tell you anything about the case, or about anyone involved with it, or about any news story, rumor, or gossip about this case, or ask you about your participation in this case until the trial has ended and your verdict has been accepted by me. If someone should try to talk to you about the case during the trial, please report it to me.

Fourth, during the trial you should not talk with or speak to any of the parties, lawyers, or witnesses involved in this case—you should not even pass the time of day with any of them. It is important that you not only do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even if it is simply to pass the time of day—an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party, or witness does not speak to you when you pass

in the hall, ride the elevator or the like, it is because they are not supposed to talk or visit with you.

Fifth, do not read any news stories or articles about the case, or about anyone involved with it, or listen to any radio or television reports about the case or about anyone involved with it, or let anyone tell you anything about any such news reports. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case you will know more about the matter than anyone will learn through the news media.

Sixth, do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation *about this case* on your own.

Seventh, do not make up your mind during the trial about what the verdict should be. Do not discuss this case with anyone, not even with other jurors, until I send you to the jury room for deliberations after closing arguments. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Eighth, if at anytime during the trial you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will deliver it to me. I want you to be comfortable, so please do not hesitate to inform me of any problem.

DATED this 19th day of August, 2008.

Mark W. Bennett

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

FINAL INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, the written Preliminary Jury Instructions that I gave you at the beginning of the trial and the oral Instructions I gave you during the trial remain in effect. I now give you some additional Final Jury Instructions.

The Final Jury Instructions that I am about to give you, as well as the Preliminary Jury Instructions that I gave you at the beginning of the trial, are in writing and will be available to you in the jury room. *All* Instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the Preliminary Jury Instructions that I gave you at the beginning of the trial are not repeated here.

I will now give you more detailed Final Jury Instructions on the requirements for proof of the offenses charged in this case.

FINAL INSTRUCTION NO. 2 - COUNT 1: THE CCE OFFENSE

Count 1 of the Indictment charges that, from a date unknown, but prior to November 2003, and continuing through about September 2007, defendant Phieu Van Nguyen unlawfully, knowingly, and intentionally engaged in a "continuing criminal enterprise" or "CCE." Phieu Van Nguyen denies that he committed this "CCE offense."

For you to find defendant Phieu Van Nguyen guilty of this "CCE offense," the prosecution must prove beyond a reasonable doubt *all* of the following essential elements:

***One*, defendant Phieu Van Nguyen committed a felony violation of federal controlled substances laws.**

> The Indictment charges that this defendant committed one or more of the following felony violations: (a) manufacturing marijuana; (b) distributing marijuana; (c) possessing with intent to distribute marijuana; (d) using a communications facility to facilitate the commission of felony drug-trafficking offenses; (e) using a structure for the purpose of manufacturing controlled substances; and (f) conspiring to manufacture, distribute, and possess with intent to distribute marijuana. The prosecution is not required to prove that the defendant committed *all* of these offenses. Rather, the prosecution must prove that the defendant committed *one or more* of these offenses to satisfy this element. However, you must unanimously agree on which one or more of these violations this defendant committed for this element to be proved.

Defendant Phieu Van Nguyen has admitted that he conspired to manufacture, distribute, and possess with intent to distribute marijuana, that is, the offense identified as (f) above. Therefore, defendant Phieu's commission of this offense is established as a matter of law. You must still determine, however, whether or not defendant Phieu Van Nguyen committed any of the other offenses alleged, and whether this conspiracy offense was part of a continuing series of related felony drug-trafficking offenses, as required by element *two*.

You have heard evidence that defendant Phieu Van Nguyen committed money-laundering offenses. However, you may *not* consider the money-laundering offenses as offenses that were committed as part of the CCE. Only the controlled substances offenses identified above are relevant to this element of the CCE offense.

***Two*, that offense was part of a continuing series of three or more related felony violations of the federal controlled substances laws.**

"A continuing series of violations" means at least three violations of the federal controlled substances laws that were connected together as a series of related or on-going activities, as distinguished from isolated and disconnected acts. The violations are "related" if they are driven by a single impulse and operated by continuous force. You must unanimously agree on which violations constituted the series of three or more violations in order to find that this element has been proved.

The Indictment charges that the following series of felony offenses were committed in furtherance of the CCE:

(a) manufacturing marijuana;
(b) distributing marijuana;

(c) possessing with intent to distribute marijuana;

(d) using a communications facility to facilitate the commission of felony drug-trafficking offenses;

(e) using a structure for the purpose of manufacturing controlled substances; and

(f) conspiring to manufacture, distribute, and possess with intent to distribute marijuana.

Again, you must unanimously agree on which violations constitute the series of three or more felony violations in order to find that the CCE existed. To help you determine whether any such violation was actually committed, you must consider the elements of that violation. I have set out the elements of each offense alleged to be one of the series of related violations briefly in Preliminary Jury Instruction No. 4, beginning on page 9.

Again, you may *not* consider any money-laundering offenses as part of the series of violations required to prove a CCE. Only the controlled substances offenses identified above are relevant to this element of the CCE offense.

***Three*, Phieu Van Nguyen undertook the series of related violations in concert with five or more other persons.**

To act "in concert" means to act pursuant to a common design or plan. The prosecution is not required to prove that Phieu Van Nguyen and the five or more other persons acted together at any one time or in the same place. Thus, it is sufficient for the prosecution to prove that any particular offense was committed by any one or more of the participants in the CCE, as long as the prosecution also proves that the offense was part of the

series of violations related by a common design or plan that was organized, supervised, or managed by Phieu Van Nguyen.

The prosecution contends that Phieu Van Nguyen acted in concert with the following persons to commit the series of related controlled substances violations: David Nguyen, Bao Quoc Nguyen, Khoi Van Ha, Tru Quoc Nguyen, Va Thi Nguyen, and Phong Duy Le. Although you must unanimously agree that Phieu Van Nguyen acted in concert with at least five *other* people, for a total of at least six people involved in the CCE, you are *not* required to agree unanimously on the identities of the five other persons.

You may *not* consider any evidence that you may have heard that Phieu Van Nguyen acted in concert with other persons to commit money-laundering offenses to determine whether Phieu Van Nguyen acted in concert with other persons for purposes of determining whether this element of the CCE offense has been proved.

***Four*, Phieu Van Nguyen acted as organizer, supervisor, or manager of those five or more other persons.**

Phieu Van Nguyen must have organized, supervised, or managed, either personally or through others, five or more persons with whom he was acting in concert while he committed the series of offenses. The prosecution must prove that Phieu Van Nguyen was an "organizer," or a "supervisor," or a "manager," not all three. An "organizer" is a person who puts together a number of people engaged in separate activities and arranges them in these activities in one operation or enterprise. A "supervisor" is a person who manages, directs, or oversees the activities of others. Thus, the prosecution must prove that Phieu Van Nguyen occupied

some managerial position or performed a central role in the CCE. To do so, the prosecution must prove that Phieu Van Nguyen had some type of influence over five or more other persons, as shown by those individuals' compliance with his directions, instructions, or terms for performing the activities of the CCE.

However, it is not necessary that Phieu Van Nguyen have organized, supervised, or managed all five other participants at once or that the five other participants have acted together at any time or in the same place. It also is not necessary that Phieu Van Nguyen have been the only person who organized, supervised, or managed the five or more other persons, or that he have exercised the same amount of control over each of the five, or that he have had the highest rank of authority in the enterprise.

The prosecution contends that Phieu Van Nguyen organized, supervised, or managed the following persons in the commission of the series of related controlled substances violations: David Nguyen, Bao Quoc Nguyen, Khoi Van Ha, Tru Quoc Nguyen, Va Thi Nguyen, and Phong Duy Le. Although you must unanimously agree that Phieu Van Nguyen organized, supervised, or managed at least five *other* people, for a total of at least six people involved in the CCE, you are *not* required to agree unanimously on the identities of the five other persons.

Again, you may *not* consider any evidence that Phieu Van Nguyen acted as organizer, supervisor, or manager of other persons to commit money-laundering offenses to determine whether Phieu Van Nguyen acted as organizer, supervisor, or manager of other persons for purposes of determining whether or not this element of the CCE offense has been proved.

***Five*, Phieu Van Nguyen obtained substantial income, money, or other property from the series of violations.**

> You may consider all money or property that passed through the participants' hands as a result of illegal drug dealings, not just profit, to determine whether the amount was "substantial." "Substantial" means of real worth and importance, of considerable value, or valuable.
>
> Although you may not consider evidence of the money-laundering offenses in your determination of whether or not the prosecution has proved the other elements of the CCE offense, if you find that the money-laundering offenses involved income, money, or other property from the CCE, then you may consider evidence of the money-laundering offenses in your determination of whether or not Phieu Van Nguyen obtained substantial income, money, or other property from the series of controlled substances violations, as required by this element of the CCE offense.

If the prosecution has not proved beyond a reasonable doubt *all* of the essential elements of this offense, then you must find defendant Phieu Van Nguyen not guilty of the "CCE offense" charged in **Count 1** of the Indictment. On the other hand, if the prosecution has proved beyond a reasonable doubt *all* of the essential elements of this offense, then you must find defendant Phieu Van Nguyen guilty of the "CCE offense" charged in **Count 1**.

FINAL INSTRUCTION NO. 3 - COUNT 2: THE MARIJUANA CONSPIRACY

Count 2 charges that, from a date unknown, but prior to November 2003, and continuing through September 2007, defendant Va Thi Nguyen knowingly and unlawfully conspired with others whose identities are both known and unknown to the Grand Jury to commit the following offenses:

(a) manufacturing 1,000 or more marijuana plants;

(b) possessing with intent to distribute 1,000 kilograms or more of marijuana; and

(c) distributing 1,000 kilograms or more of marijuana.

This Count charges, further, that the conspirators conspired to commit these offenses within 1,000 feet of a playground or school, that is, Dale Street Park, Irving Elementary, Kiddie Park, Roosevelt Elementary, and Cook Park Center, all located in Sioux City, Woodbury County, Iowa. Defendant Va Thi Nguyen denies that she committed this offense.

For you to find defendant Va Thi Nguyen guilty of this "marijuana conspiracy" offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements as to her:

***One*, between a date unknown, but prior to November 2003, and September 2007, two or more persons reached an agreement or came to an**

understanding to commit one or more of the offenses identified as objectives of the conspiracy.

> The prosecution must prove that the defendant reached an agreement or understanding with at least one other person. The other person or persons do not have to be defendants, or named in the Indictment, or otherwise charged with a crime. There is no requirement that any other conspirators be named as long as you find beyond a reasonable doubt that there was at least one other co-conspirator besides the defendant.
>
> The "agreement or understanding" need not be an express or formal agreement or be in writing or cover all the details of how it is to be carried out. Nor is it necessary that the members have directly stated between themselves the details or purpose of the scheme. In determining whether the alleged agreement existed, you may consider the actions and statements of all of the alleged participants, whether they are charged as defendants or not. The agreement may be inferred from all of the circumstances and the conduct of the alleged participants.
>
> The "marijuana conspiracy" charge alleges that the conspirators agreed to commit various offenses as "objectives" of the conspiracy and that the conspirators conspired to commit those offenses within 1,000 feet of a playground or school. To assist you in determining whether there was an agreement to commit one or more of these objectives, you should consider the elements of these offenses. The elements of ***manufacturing marijuana*** and ***distributing marijuana*** were explained in Preliminary Jury Instruction No. 4, beginning on page 9. The elements of ***possessing with intent to distribute marijuana*** were explained in Preliminary Jury Instruction

No. 4, beginning on page 10. The definitions of "school," "playground," and "proximity" to a school or playground are set out for you in Preliminary Jury Instruction No. 6, beginning on page 16.

Also keep in mind that the prosecution must prove that there was an *agreement* to commit the offenses alleged to be "objectives" to establish the guilt of the defendant on the "marijuana conspiracy" charge. The prosecution is *not* required to prove that there was an agreement to commit *all* of those offenses. Also, the prosecution is *not* required to prove that any offense charged as an "objective" of the "marijuana conspiracy" *was actually committed*. In other words, the question is whether the defendant *agreed* to commit one or more of the offenses charged as "objectives" of the "marijuana conspiracy," not whether the defendant or someone else *actually* committed any such offenses.

If there was no agreement, there was no conspiracy. Similarly, if you find that there was an agreement, but you find that the defendant did not join in that agreement, or did not know the purpose of the agreement, then you cannot find the defendant guilty of the "marijuana conspiracy" charge.

***Two*, Va Thi Nguyen voluntarily and intentionally joined in the agreement or understanding, either at the time that it was first reached or at some later time while it was still in effect.**

You should understand that merely being present at the scene of an event, or merely acting in the same way as others, or merely associating with others does not prove that a person has joined in an agreement or understanding. A person who has no knowledge of a conspiracy, but who happens to act in a way that advances some purpose of

one, does not thereby become a member. Similarly, mere knowledge of the existence of a conspiracy, or mere knowledge that a controlled substance is being distributed or possessed with intent to distribute, is not enough to prove that the defendant joined in the conspiracy; rather, the prosecution must establish some degree of knowing involvement and cooperation by the defendant.

On the other hand, a person may join in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other members are. Further, it is not necessary that a person agree to play any particular part in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that person agrees to play only a minor part in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it.

In deciding whether the defendant voluntarily and intentionally joined in the agreement, you must consider only evidence of the defendant's own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial statements of others describe something that the defendant said or did.

***Three*, at the time that Va Thi Nguyen joined in the agreement or understanding, she knew the purpose of the agreement or understanding.**

The defendant must have known of the existence and purpose of the conspiracy. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy.

If the prosecution has not proved beyond a reasonable doubt *all* of the essential elements of this offense against defendant Va Thi Nguyen, then you must find her not guilty of the "marijuana conspiracy" offense charged in **Count 2** of the Indictment. On the other hand, if the prosecution has proved beyond a reasonable doubt *all* of the essential elements of this offense against defendant Va Thi Nguyen, then you must find her guilty of the "marijuana conspiracy" offense charged in **Count 2**.

In addition, if you find defendant Va Thi Nguyen guilty of the "marijuana conspiracy" charge in **Count 2**, then you must also determine beyond a reasonable doubt the quantity of any marijuana actually involved in the conspiracy for which she can be held responsible, as determination of drug quantity is explained in Preliminary Jury Instruction No. 7.

FINAL INSTRUCTION NO. 4 - COUNTS 3 THROUGH 8: MONEY LAUNDERING WITH PROCEEDS OF ILLEGAL DRUG TRAFFICKING

Counts 3 through **8** of the Indictment charge that, on or about certain specified dates, defendant Phieu Van Nguyen knowingly and willfully conducted, attempted to conduct, and aided and abetted in the conduct of financial transactions affecting interstate and foreign commerce that involved the proceeds of illegal drug trafficking, including but not limited to the conduct charged in **Count 1**. More specifically,

Count 3 charges that, on or about February 20, 2006, the defendant drew check 1376 on the Nguyen Liquors account in the amount of $6,422;

Count 4 charges that, on or about May 1, 2006, the defendant made three cash deposits totaling more than $16,000;

Count 5 charges that, on or about August 16, 2006, the defendant made a cash payment of approximately $30,000 for growing equipment that had been delivered from outside the state of Iowa;

Count 6 charges that, on or about January 2 and 3, 2007, the defendant made three cash deposits totaling $19,000;

Count 7 charges that, on or about March 30, 2007, the defendant made two cash deposits totaling $10,000; and

Count 8 charges that, on or about April 17, 2007, the defendant made four cash deposits totaling more than $20,000.

Defendant Phieu Van Nguyen denies that he committed these "money laundering" offenses.

For you to find defendant Phieu Van Nguyen guilty of one of these offenses, the prosecution must prove *all* of the following essential elements beyond a reasonable doubt as to that offense:

***One*, on or about the date alleged in the Count in question, Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct a financial transaction that in any way or degree affected interstate or foreign commerce.**

> A person "attempted to conduct" a financial transaction, if the person intended to conduct a financial transaction and voluntarily and intentionally carried out some act that was a substantial step toward completion of the transaction. A "substantial step" must be more than mere preparation, yet may be less than the last step necessary before the actual completion of the transaction. It must, however, be necessary to the consummation or completion of the transaction and be of such a nature that a reasonable observer, viewing it in context, could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to conduct a financial transaction.
>
> A person "aided and abetted another" to conduct a financial transaction, if the person knew that the financial transaction was going to be conducted, knowingly acted in some way for the purpose of causing, encouraging, or aiding the financial transaction, and intended that the financial transaction would be conducted.
>
> "Financial transaction" means a transaction which in any way or degree affects interstate commerce

involving the movement of funds by wire or other means. A "financial transaction" is also a transaction involving the use of a financial institution that is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.

"Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of property. With respect to a financial institution, a "transaction" means a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means.

"Interstate commerce" means commerce between any combination of states of the United States. "Foreign commerce" means commerce between any state, territory, or possession of the United States and a foreign country. "Commerce," in turn, includes, among other things, travel, trade, transportation, and communication. It is not necessary for the prosecution to show that the defendant actually intended or anticipated an effect on interstate or foreign commerce. All that is necessary is that interstate or foreign commerce was affected as a natural and probably consequence of the defendant's actions. You may find an effect on interstate or foreign commerce if you find beyond a reasonable doubt from the evidence that currency used in the transaction was printed in Washington, D.C.

***Two*, Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct the financial transaction with a monetary**

instrument that involved the proceeds of the illegal manufacture, distribution, or possession with intent to distribute of marijuana.

> A "monetary instrument" is, among other things, coin or currency of the United States or of any other country, a traveler's check, a cashier's check, a personal check, a bank checks, or a money order, in such form that title to the instrument passes upon delivery.
>
> "Proceeds" means any property, or any interest in property, that someone acquires as a result of the commission of the manufacture or sale of illegal controlled substances. "Proceeds" can be any kind of property, including money. The prosecution is not required to trace the property that it alleges to be proceeds of the unlawful manufacture or sale of controlled substances to a particular underlying offense. It is sufficient if the prosecution proves beyond a reasonable doubt that the property was the proceeds of the unlawful manufacture or sale of controlled substances generally. For example, in a case involving alleged drug proceeds, such as this case, the prosecution would not have to trace the money to a particular drug offense, but could satisfy this requirement by proving that the money was the proceeds of drug trafficking generally. The prosecution also need not prove that all of the property involved in the transaction was the proceeds of the unlawful manufacture or sale of drugs. Rather, it is sufficient if the prosecution proves that at least part of the property represented such proceeds.

***Three*, at the time Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct the financial transaction, he**

knew that the monetary instrument represented the proceeds of some form of unlawful activity.

> "Knew the monetary instrument represented the proceeds of some form of unlawful activity" means that the defendant knew that the property involved in the transaction represented the proceeds from some form, though not necessarily which form, of activity that constitutes a felony offense under federal or state law. Thus, the prosecution need not prove that the defendant specifically knew that the monetary instrument involved in the financial transactions represented the proceeds of distributing controlled substances or any other specific offense; rather, the prosecution need only prove that the defendant knew that the monetary instrument represented the proceeds of some form, though not necessarily which form, of felony under federal or state law. As a matter of law, manufacturing, distributing, and possessing with intent to distribute controlled substances are felonies under federal law.

***Four*, Phieu Van Nguyen conducted, or attempted to conduct, or aided and abetted another to conduct the financial transaction with an unlawful objective.**

> The Indictment charges that the transactions were conducted with the following unlawful objectives:
>
> (a) with the intent to promote the carrying on of the illegal drug trafficking; or
>
> (b) knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking; or

(c) knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law, which requires financial institutions to file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than $10,000.

The prosecution does not have to prove that the offense had all three objectives; rather, the prosecution must prove beyond a reasonable doubt that the offense had one or more of the three objectives. You must unanimously agree on which one or more of the objectives the prosecution has proved beyond a reasonable doubt.

If the prosecution has not proved beyond a reasonable doubt *all* of the essential elements of a particular "money laundering" offense charged in **Counts 3** through **8** against defendant Phieu Van Nguyen, then you must find him not guilty of that offense. On the other hand, if the prosecution has proved beyond a reasonable doubt *all* of the essential elements of a particular "money laundering" offense charged in **Counts 3** through **8** against defendant Phieu Van Nguyen, then you must find him guilty of that offense.

FINAL INSTRUCTION NO. 5 - COUNTS 9 AND 10: MONEY LAUNDERING WITH CRIMINALLY DERIVED PROPERTY

Counts 9 and **10** of the Indictment charge that, on or about specified dates, defendant Phieu Van Nguyen knowingly engaged in, or attempted to engage in, or aided and abetted another to engage in financial transactions through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from illegal drug trafficking, including but not limited to the conduct charged in Count 1. More specifically,

Count 9 charges that, on or about April 16, 2007, the defendant engaged in, or attempted to engage in, or aided and abetted another to engage in a financial transaction in the amount of $22,220; and

Count 10 charges that, on or about May 6, 2007, the defendant engaged in, or attempted to engage in, or aided and abetted another to engage in a financial transaction in the amount of $12,000.

Defendant Phieu Van Nguyen denies that he committed these "money laundering" offenses.

For you to find the defendant guilty of one of these offenses, the prosecution must prove *all* of the following essential elements beyond a reasonable doubt as to that offense:

***One*, on or about the date alleged in the Count in question, Phieu Van Nguyen knowingly engaged in, or attempted to engage in, or aided and abetted another to engage in a financial transaction through or to a financial institution.**

> "Attempted to conduct" a financial transaction, "aided and abetted another" to conduct a financial transaction, "financial transaction," and "transaction" were all defined for you beginning on page 52, in the explanation to element *one* in Final Jury Instruction No. 4. Those definitions also apply here.
>
> A "financial institution" is a bank; a currency dealer or exchanger; a check casher; an issuer of traveler's checks or money orders; a seller or redeemer of traveler's checks or money orders; a money transmitter who accepts currency or funds and transmits the currency or funds through another financial agency or institution or an electronic funds transfer network; or the United States Postal Service.

***Two*, the financial transaction was of a value greater than $10,000 derived from the manufacture or distribution of marijuana.**

> The prosecution must prove that the money involved in the financial transaction constituted, or derived from, proceeds obtained from a criminal offense, in this case, the manufacture or distribution of marijuana. "Proceeds" means any property, or any interest in property, that someone acquires as a result of the commission of the manufacture or sale of illegal controlled substances. "Proceeds" can be any kind of property, including money. The prosecution is not required to trace the property that it alleges to be proceeds of the unlawful manufacture or sale of controlled

substances to a particular underlying offense. It is sufficient if the prosecution proves beyond a reasonable doubt that the property was the proceeds of the unlawful manufacture or sale of controlled substances generally. For example, in a case involving alleged drug proceeds, such as this case, the prosecution would not have to trace the money to a particular drug offense, but could satisfy this requirement by proving that the money was the proceeds of drug trafficking generally. The prosecution also need not prove that all of the property involved in the transaction was the proceeds of the unlawful sale of drugs. Rather, it is sufficient if the prosecution proves that at least part of the property represented such proceeds.

***Three*, Phieu Van Nguyen knew that the financial transaction involved proceeds of a criminal offense.**

"Knew the financial transaction involved the proceeds of some form of a criminal offense" means that the defendant knew that the property involved in the transaction represented the proceeds from some form, though not necessarily which form, of activity that constitutes a felony offense under federal or state law. Thus, the prosecution need not prove that the defendant specifically knew that the funds involved in the financial transactions represented the proceeds of distributing controlled substances or any other specific offense; rather, the prosecution need only prove that the defendant knew that the funds represented the proceeds of some form, though not necessarily which form, of felony under federal or state law. As a matter of law, manufacturing, distributing, and possessing with intent to distribute controlled substances are felonies under federal law.

***Four*, the financial transaction took place in the Northern District of Iowa.**

***Five*, the financial transaction in some way or degree affected interstate commerce.**

> "Interstate commerce" means commerce between any combination of states of the United States. "Foreign commerce" means commerce between any state, territory, or possession of the United States and a foreign country. "Commerce," in turn, includes, among other things, travel, trade, transportation, and communication. It is not necessary for the prosecution to show that the defendant actually intended or anticipated an effect on interstate or foreign commerce. All that is necessary is that interstate or foreign commerce was affected as a natural and probably consequence of the defendant's actions. You may find an effect on interstate or foreign commerce if you find beyond a reasonable doubt from the evidence that currency used in the transaction was printed in Washington, D.C.

If the prosecution has not proved beyond a reasonable doubt *all* of the essential elements of a particular "money laundering" offense charged in **Count 9** or **Count 10** against defendant Phieu Van Nguyen, then you must find him not guilty of that offense. On the other hand, if the prosecution has proved beyond a reasonable doubt *all* of the essential elements of a particular "money laundering" offense charged in **Count 9** or **Count 10** against defendant Phieu Van Nguyen, then you must find him guilty of that offense.

FINAL INSTRUCTION NO. 6 - IMPEACHMENT

In Preliminary Jury Instruction No. 14, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be "impeached."

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony. If earlier statements of a witness were admitted into evidence, they were not admitted to prove that the contents of those statements were true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and therefore whether they affect the credibility of that witness.

You have heard evidence that some witnesses have each been convicted of a crime. You may use that evidence only to help you decide whether or not to believe these witnesses and how much weight to give their testimony.

You should treat the testimony of certain witnesses with greater caution and care than that of other witnesses:

1. You have heard evidence that witnesses Boa Quoc Nguyen, David Nguyen, Tru Quoc Nguyen, Phong Le, Khoi Ha, and Casey Tran testified pursuant to plea agreements and hope to receive reductions in their sentences in return for their cooperation with the government in this case. If

the prosecutor handling such a witness's case believes that the witness has provided "substantial assistance," the prosecutor can file a motion to reduce the witness's sentence. Also, witnesses Boa Quoc Nguyen, David Nguyen, Tru Quoc Nguyen, Phong Le, and Khoi Ha are each subject to a mandatory minimum sentence, that is, a sentence that the law provides must be of a certain minimum length. If the prosecutor handling such a witness's case believes that the witness has provided substantial assistance, the prosecutor can file a motion to reduce that witness's sentence below the mandatory minimum. The judge has no power to reduce a sentence for a witness for substantial assistance unless the U.S. Attorney files a motion requesting such a reduction. If the motion for reduction of sentence for substantial assistance is filed by the U.S. Attorney, then it is up to the judge to decide whether to reduce the sentence of that witness at all, and if so, how much to reduce it. You may give the testimony of such witnesses such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by the witness's hope of receiving a reduction in sentence is for you to decide.

2. You have also heard evidence that witnesses Boa Quoc Nguyen, David Nguyen, Tru Quoc Nguyen, Phong Le, and Khoi Ha participated in one or more of the crimes charged in this case. Their testimony was received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the testimony of such a witness may have been influenced by his or her desire to please the

government or to strike a good bargain with the government about his or her own situation is for you to determine.

3. You have heard evidence that witnesses Boa Quoc Nguyen, David Nguyen, Tru Quoc Nguyen, Phong Le, and Khoi Ha have each pled guilty to a crime that arose out of the same events for which the defendants are on trial here. Their testimony was received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. However, you must not consider such a witness's guilty plea as any evidence of the guilt of the defendants currently on trial. You may consider such a witness's guilty plea only for the purpose of determining how much, if at all, to rely upon that witness's testimony.

* * *

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness's testimony whatever weight you think it deserves. Also, you are free to disbelieve the testimony of any or all witnesses.

FINAL INSTRUCTION NO. 7 - PRETRIAL STATEMENTS BY DEFENDANT PHIEU VAN NGUYEN

You have heard evidence that defendant Phieu Van Nguyen made statements to law enforcement officers in this case. You must decide (1) whether the defendant made the statements, and if so, (2) how much weight you should give such statements. In making these decisions, you should consider all of the evidence, including the circumstances under which the statements were allegedly made. You may use evidence that defendant Phieu Van Nguyen made statements to law enforcement officers prior to trial only to help you decide whether he made such a statement and whether what he said here in court was true. You may consider any pretrial statement by Phieu Van Nguyen only in the case against him, but not against defendant Va Thi Nguyen. Thus, you may not consider or discuss his statement in any way when you are deciding if the prosecution has proved, beyond a reasonable doubt, its case against defendant Va Thi Nguyen.

FINAL INSTRUCTION NO. 8 - PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Each defendant is presumed innocent of each the charges against him or her and, therefore, not guilty of each offense. This presumption of innocence requires you to put aside all suspicion that might arise from the arrest or charge of the defendants or the fact that they are here in court. The presumption of innocence remains with each defendant throughout the trial. That presumption alone is sufficient to find them not guilty. The presumption of innocence may be overcome as to a particular charge against a particular defendant only if the prosecution proves, beyond a reasonable doubt, all of the elements of that offense against that defendant.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant to prove his or her innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, you must not consider the fact that a defendant did not testify in any way, or even discuss it, in arriving at your verdict.

Unless the prosecution proves beyond a reasonable doubt that a defendant has committed each and every element of an offense charged against him or her, you must find that defendant not guilty of that offense.

FINAL INSTRUCTION NO. 9 - REASONABLE DOUBT

I have previously instructed you that the prosecution must prove a charged offense "beyond a reasonable doubt" for you to find a defendant guilty of that charged offense. A reasonable doubt may arise from the evidence produced by either the prosecution or either defendant, keeping in mind that the defendants never have the burden or duty of calling any witnesses or producing any evidence. It may also arise from the prosecution's lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

* * *

I will reserve the remaining Final Jury Instructions until after the parties present their closing arguments.

FINAL INSTRUCTION NO. 10 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. *Your verdict on each charge against each defendant must be unanimous*. It is your duty to consult with one another and to deliberate with a view to reaching agreement if you can do so consistent with your individual judgment. You must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself; but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations you should not hesitate to re-examine your own views, and to change your opinion if you are convinced that it is wrong. To bring twelve minds to an unanimous result, you must examine the questions submitted to you openly and frankly, with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish a defendant's guilt beyond a reasonable doubt on an offense charged against that defendant, then that defendant should have your vote for a not guilty verdict on that offense. If all of you reach the same conclusion, then the verdict of the jury must be not guilty for that defendant on that offense. The opposite also applies for you to find a defendant guilty. As I instructed you earlier, the burden is upon the prosecution to prove beyond a reasonable doubt every essential element of an

offense charged against a particular defendant, and if the prosecution fails to do so, then you cannot find that defendant guilty of that offense.

Remember, also, that the question before you can never be whether the prosecution wins or loses the case. The prosecution, as well as society, always wins, regardless of whether your verdict is not guilty or guilty, when justice is done.

Finally, remember that you are not partisans; you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. However, I suggest that you carefully consider all of the evidence bearing upon the questions before you. You may take all the time that you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial, or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you. If you should fail to agree on a verdict, the case is left open and must be disposed of at some later time.

FINAL INSTRUCTION NO. 11 - DUTY DURING DELIBERATIONS

There are certain rules that you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, if a particular defendant is guilty of a charged offense, then the sentence to be imposed is my responsibility. You may not consider punishment of a defendant in any way in deciding whether the prosecution has proved its case against that defendant beyond a reasonable doubt.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible, either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically*.

Fourth, your verdict must be based solely on the evidence and on the law in these instructions. You must return a unanimous verdict on each charge against each defendant. Nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, in your consideration of whether a defendant is not guilty or guilty of an offense charged against him or her, you must not consider that defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for

or against a defendant on a charged offense unless you would return the same verdict on that charge without regard to that defendant's race, color, religious beliefs, national origin, or sex. To emphasize the importance of this consideration, the verdict form contains a certification statement. Each of you should carefully read the statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects the manner in which each of you reached your decision.

Sixth, I am giving you the verdict form. A verdict form is simply the written notice of the decision that you reach in this case. You will take the verdict form to the jury room. *Again, you must return a unanimous verdict on each charge against each defendant*. When you have reached a unanimous verdict, your foreperson must complete one copy of the verdict form and all of you must sign that copy to record your individual agreement with the verdict and to show that it is unanimous. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

Finally, if you find a defendant guilty of an offense charged in **Count 1** or **Count 2**, there will be further proceedings for you to determine whether certain property involved in those offenses should be forfeited to the government.

DATED this 27th day of August, 2008.

Mark W. Bennett

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. PHIEU VAN NGUYEN and VA THI NGUYEN, Defendants.	No. CR 07-4068-MWB **VERDICT FORM**

_____

I. PHIEU VAN NGUYEN

As to defendant Phieu Van Nguyen, we, the Jury, unanimously find as follows:

COUNT 1: THE CCE OFFENSE		**VERDICT**
Step 1: Verdict	On the "CCE" charge in **Count 1**, as explained in Final Jury Instruction No. 2, please mark your verdict. (*If you found the defendant "not guilty," do not consider the questions in **Steps 2** or **3**. Instead, go on to consider your verdict on **Count 3**. However, if you found the defendant "guilty" of **Count 1**, please answer the questions in **Steps 2** and **3** of this section of the Verdict Form.*)	____ Not Guilty ____ Guilty
Step 2: Series of violations	*If you found the defendant "guilty" of the "CCE" charge in **Count 1**,* please indicate which of the alleged violations you unanimously agree constituted the series of three or more violations that were part of the CCE.	
	_____ (a) manufacturing marijuana	
	_____ (b) distributing marijuana	

	_____ (c) possessing with intent to distribute marijuana	
	_____ (d) using a communications facility to facilitate the commission of felony drug-trafficking offenses	
	_____ (e) using a structure for the purpose of manufacturing controlled substances	
	_____ (f) conspiring to manufacture, distribute, and possess with intent to distribute marijuana	
Step 3: Participants	*If you found the defendant "guilty" of the "CCE" charge in **Count 1**,* you must have unanimously found that the defendant acted "in concert" with five or more other persons to commit the series of violations in **Step 2**, and that the defendant acted as the "organizer," "supervisor," or "manager" of those five or more other persons. You do not have to unanimously agree on the identity of the five or more other persons. Therefore, please indicate each person that *any juror* finds was a participant in the CCE and was organized, supervised, or managed by the defendant.	
	_____ David Nguyen	_____ Bao Quoc Nguyen
	_____ Khoi Van Ha	_____ Tru Quoc Nguyen
	_____ Va Thi Nguyen	_____ Phong Duy Le
COUNT 3: MONEY LAUNDERING		**VERDICT**
Step 1: Verdict	On the "money laundering" offense charged in **Count 3**, alleging the drawing of a check on February 20, 2006, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty" of this offense, do not answer the question in **Step 2**. Instead, go on to consider your verdict on **Count 4**.*)	___ Not Guilty ____ Guilty
Step 2: Objective(s)	*If you found the defendant "guilty" of this offense*, please indicate which one or more of the following was an objective of the offense.	
	____ (a) commission with the intent to promote the carrying on of the illegal drug trafficking	
	_____ (b) commission knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking	
	_____ (c) commission knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.	

COUNT 4: MONEY LAUNDERING		VERDICT
Step 1: Verdict	On the "money laundering" offense charged in **Count 4**, alleging cash deposits on May 1, 2006, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty" of this offense, do not answer the question in **Step 2**. Instead, go on to consider your verdict on **Count 5**.*)	___ Not Guilty ____ Guilty
Step 2: Objective(s)	*If you found the defendant "guilty" of this offense*, please indicate which one or more of the following was an objective of the offense.	
	____ (a) commission with the intent to promote the carrying on of the illegal drug trafficking	
	_____ (b) commission knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking	
	_____ (c) commission knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.	
COUNT 5: MONEY LAUNDERING		**VERDICT**
Step 1: Verdict	On the "money laundering" offense charged in **Count 5**, alleging a cash payment on August 16, 2006, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty" of this offense, do not answer the question in **Step 2**. Instead, go on to consider your verdict on **Count 6**.*)	___ Not Guilty ____ Guilty
Step 2: Objective(s)	*If you found the defendant "guilty" of this offense*, please indicate which one or more of the following was an objective of the offense.	
	____ (a) commission with the intent to promote the carrying on of the illegal drug trafficking	
	_____ (b) commission knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking	
	_____ (c) commission knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.	

COUNT 6: MONEY LAUNDERING		VERDICT
Step 1: Verdict	On the "money laundering" offense charged in **Count 6**, alleging a cash deposits on January 2 and 3, 2007, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty" of this offense, do not answer the question in **Step 2**. Instead, go on to consider your verdict on **Count 7**.*)	___ Not Guilty ____ Guilty
Step 2: Objective(s)	*If you found the defendant "guilty" of this offense*, please indicate which one or more of the following was an objective of the offense.	
	____ (a) commission with the intent to promote the carrying on of the illegal drug trafficking	
	_____ (b) commission knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking	
	_____ (c) commission knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.	
COUNT 7: MONEY LAUNDERING		**VERDICT**
Step 1: Verdict	On the "money laundering" offense charged in **Count 7**, alleging cash deposits on March 30, 2007, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty" of this offense, do not answer the question in **Step 2**. Instead, go on to consider your verdict on **Count 8**.*)	___ Not Guilty ____ Guilty
Step 2: Objective(s)	*If you found the defendant "guilty" of this offense*, please indicate which one or more of the following was an objective of the offense.	
	____ (a) commission with the intent to promote the carrying on of the illegal drug trafficking	
	_____ (b) commission knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking	
	_____ (c) commission knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.	

COUNT 8: MONEY LAUNDERING		VERDICT
Step 1: Verdict	On the "money laundering" offense charged in **Count 8**, alleging cash deposits on April 17, 2007, as explained in Final Jury Instruction No. 4, please mark your verdict. (*If you found the defendant "not guilty" of this offense, do not answer the question in **Step 2**. Instead, go on to consider your verdict on **Count 9**.*)	___ Not Guilty ____ Guilty
Step 2: Objective(s)	*If you found the defendant "guilty" of this offense*, please indicate which one or more of the following was an objective of the offense.	
	____ (a) commission with the intent to promote the carrying on of the illegal drug trafficking	
	_____ (b) commission knowing the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the illegal drug trafficking	
	_____ (c) commission knowing the transaction was designed in whole and in part to avoid a transaction reporting requirement under federal law.	

COUNT 9: MONEY LAUNDERING	VERDICT
On the "money laundering" offense charged in **Count 9**, alleging a financial transaction through or to a financial institution on April 16, 2007, as explained in Final Jury Instruction No. 5, please mark your verdict.	___ Not Guilty ____ Guilty

COUNT 10: MONEY LAUNDERING	VERDICT
On the "money laundering" offense charged in **Count 10**, alleging a financial transaction through or to a financial institution on May 6, 2007, as explained in Final Jury Instruction No. 5, please mark your verdict.	___ Not Guilty ____ Guilty

CERTIFICATION
By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the offenses charged regardless of the race, color, religious beliefs, national origin, or sex of the defendant.

_____
Date

_____ _____
Foreperson Juror

_____ _____
Juror Juror

_____ _____
Juror Juror

_____ _____
Juror Juror

_____	_____
Juror	Juror
_____	_____
Juror	Juror

II. VA THI NGUYEN

As to defendant Va Thi Nguyen, we, the Jury, unanimously find as follows: follows:

<table>
<tr><th colspan="3">COUNT 2: MARIJUANA CONSPIRACY</th><th>VERDICT</th></tr>
<tr><td>Step 1:
Verdict</td><td colspan="2">On the “marijuana conspiracy” offense charged in Count 2, as explained in Final Jury Instruction No. 3, please mark your verdict. (If you found the defendant “not guilty,” do not consider the questions in Steps 2 and 3. Instead, please inform the Court Security Officer that you have reached a verdict.)</td><td>____ Not Guilty

____ Guilty</td></tr>
<tr><td>Step 2:
Objective(s) and quantity of marijuana</td><td colspan="3">If you found the defendant “guilty” of the “marijuana conspiracy” charge in Count 2, please indicate the “objective” or “objectives” of the conspiracy and the quantities of marijuana involved for which the defendant can be held responsible. (Quantity of marijuana is explained in Preliminary Jury Instruction No. 7.)</td></tr>
<tr><td rowspan="3"></td><td>_____ manufacturing marijuana</td><td colspan="2">_____ 1,000 or more plants
_____ 100 or more plants, but less than 1,000 plants
_____ less than 100 plants</td></tr>
<tr><td>_____ distributing marijuana</td><td colspan="2">_____ 1,000 kilograms or more
_____ 100 or more kilograms, but less than 1,000 kilograms
_____ less than 100 kilograms</td></tr>
<tr><td>_____ possessing with intent to distribute marijuana</td><td colspan="2">_____ 1,000 kilograms or more
_____ 100 or more kilograms, but less than 1,000 kilograms
_____ less than 100 kilograms</td></tr>
</table>

Step 3: Proximity to a school or playground	*If you found the defendant "guilty" of the "marijuana conspiracy" charge in **Count 2**,* please indicate, by marking "yes" or "no," whether the prosecution has proved beyond a reasonable doubt that the location at which the conspirators agreed that the manufacture of marijuana, the distribution of marijuana, or the possession of marijuana with intent to distribute would take place was within 1,000 feet of one or more of the "schools" or "playgrounds" identified in the Indictment, and if so, please mark which one or more "schools" or "playgrounds." (*"School" and "playground" were defined for you in Preliminary Jury Instruction No. 6, beginning on page 16, and what is required for proof of an agreement to commit drug-trafficking offenses in proximity to a school or playground is defined for you in Preliminary Jury Instruction No. 6, beginning on page 17.*)	
	_____ Yes	_____ No
	_____ Dale Street Park	_____ Irving Elementary
	_____ Kiddie Park	_____ Roosevelt Elementary
	_____ Cook Park Center	
CERTIFICATION		
By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the offenses charged regardless of the race, color, religious beliefs, national origin, or sex of the defendant.		

_____
Date

_____ _____
Foreperson Juror

_____ _____
Juror Juror

_____	_____
Juror	Juror
_____	_____
Juror	Juror
_____	_____
Juror	Juror
_____	_____
Juror	Juror